

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:17-cv-01395-TSC**

PEOPLE FOR THE ETHICAL TREATMENT OF ANIMALS,
INC. v. UNITED STATES DEPARTMENT OF HEALTH AND
HUMAN SERVICES

Assigned to: Judge Tanya S. Chutkan
Cause: 05:552 Freedom of Information Act

Date Filed: 07/14/2017

Jury Demand: None

Nature of Suit: 895 Freedom of
Information Act

Jurisdiction: U.S. Government Defendant

Plaintiff

**PEOPLE FOR THE ETHICAL
TREATMENT OF ANIMALS, INC.**

represented by **Gabriel Zane Walters**
PETA FOUNDATION
1536 16th Street, NW
Washington, DC 20036
(202) 483-7382
Email: gabew@petaf.org
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

John Seber
FOUNDATION TO SUPPORT ANIMAL
PROTECTION
1536 16th Street, NW
Washington, DC 20036
(202) 540-2178
Fax: (202) 540-2208
Email: johns@mercyforanimals.org
TERMINATED: 02/21/2018
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

David Albert Schwartz
INSTITUTE FOR PUBLIC
REPRESENTATION
Georgetown University Law Center
600 New Jersey Avenue, NW
Suite 312
Washington, DC 20001
(202) 266-9459
PRO HAC VICE
ATTORNEY TO BE NOTICED

V.

Defendant

**UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES**

represented by **Paul Cirino**
U.S. ATTORNEY'S OFFICE FOR THE
DISTRICT OF COLUMBIA
555 Fourth Street, NW
Washington, DC 20530
(202) 252-2529
Fax: (202) 252-2599
Email: paul.cirino@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Joshua M. Kolsky
U.S. ATTORNEY'S OFFICE FOR THE
DISTRICT OF COLUMBIA

555 Fourth Street, NW
 Washington, DC 20530
 (202) 252-2541
 Fax: (202) 252-2599
 Email: joshua.kolsky@usdoj.gov
 TERMINATED: 12/18/2018

Date Filed	#	Docket Text
07/14/2017	<u>1</u>	COMPLAINT against UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES (Filing fee \$ 400 receipt number 0090-5032141) filed by PEOPLE FOR THE ETHICAL TREATMENT OF ANIMALS, INC.. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Summons U.S. Dep't of Health & Human Services, # <u>3</u> Summons U.S. Attorney's Office, # <u>4</u> Summons U.S. Attorney General's Office)(Seber, John) (Entered: 07/14/2017)
07/17/2017		Case Assigned to Judge Tanya S. Chutkan. (zmd) (Entered: 07/17/2017)
07/26/2017	<u>2</u>	Corporate Disclosure Statement by PEOPLE FOR THE ETHICAL TREATMENT OF ANIMALS, INC.. (Seber, John) (Main Document 2 replaced on 7/27/2017) (znmw). (Entered: 07/26/2017)
07/26/2017	<u>3</u>	SUMMONS (3) Issued Electronically as to UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, U.S. Attorney and U.S. Attorney General (Attachments: # <u>1</u> Notice of Consent) (zmd) (Entered: 07/26/2017)
08/09/2017	<u>4</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 8/7/2017. Answer due for ALL FEDERAL DEFENDANTS by 9/6/2017. (Seber, John) (Entered: 08/09/2017)
08/09/2017	<u>5</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 8/7/2017. (Seber, John) (Entered: 08/09/2017)
08/09/2017	<u>6</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES served on 8/7/2017 (Seber, John) (Entered: 08/09/2017)
08/16/2017	<u>7</u>	NOTICE of Appearance by Gabriel Zane Walters on behalf of PEOPLE FOR THE ETHICAL TREATMENT OF ANIMALS, INC. (Walters, Gabriel) (Entered: 08/16/2017)
09/06/2017	<u>8</u>	NOTICE of Appearance by Joshua M. Kolsky on behalf of UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES (Kolsky, Joshua) (Entered: 09/06/2017)
09/06/2017	<u>9</u>	ANSWER to Complaint by UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES.(Kolsky, Joshua) (Entered: 09/06/2017)
09/08/2017		MINUTE ORDER: Before the Court in this FOIA case are a complaint and an answer. The requirements of LCvR 16.3 and Rule 26(f) of the Federal Rules of Civil procedure appear to be inapplicable. IT IS HEREBY ORDERED that the parties shall meet and confer and propose a schedule for proceeding in this matter. The schedule shall address the status of Plaintiff's FOIA request, the anticipated number of documents responsive to Plaintiff's FOIA request, the anticipated date(s) for release of the documents requested by Plaintiff, whether a motion for an Open America stay is likely in this case, whether a Vaughn index will be required in this case, whether and when either party anticipates filing a dispositive motion, and any other pertinent issues. The parties shall file a joint status report that addresses these issues and that contains a proposed schedule and proposed order not later than 9/29/17. Signed by Judge Tanya S. Chutkan on 9/8/17. (DJS) (Entered: 09/08/2017)
09/08/2017		Set/Reset Deadlines: Joint Status Report due by 9/29/2017. (tb) (Entered: 09/08/2017)
09/29/2017	<u>10</u>	Joint STATUS REPORT by UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES. (Attachments: # <u>1</u> Text of Proposed Order)(Kolsky, Joshua)

		(Entered: 09/29/2017)
10/03/2017		MINUTE ORDER: Having considered the parties' Joint Status Report <u>10</u> , it is hereby ordered that the parties shall adhere to the following schedule: Defendant shall complete its document production in this case by October 30, 2017. The parties shall file another Joint Status Report by November 13, 2017 identifying: (i) whether any disputed issues remain; (ii) if necessary, the proposed briefing schedules for (a) Plaintiff to seek leave to take discovery and (b) for both parties to file dispositive motions; and (iii) whether it will be necessary for Defendant to prepare a Vaughn Index. A proposed order shall accompany the Joint Status Report. Signed by Judge Tanya S. Chutkan on 10/3/17. (DJS) (Entered: 10/03/2017)
10/04/2017		Set/Reset Deadlines: Joint Status Report due by 11/13/2017. (tb) (Entered: 10/04/2017)
11/13/2017	<u>11</u>	Joint STATUS REPORT by PEOPLE FOR THE ETHICAL TREATMENT OF ANIMALS, INC.. (Attachments: # <u>1</u> Text of Proposed Order)(Seber, John) (Entered: 11/13/2017)
11/14/2017	<u>12</u>	SCHEDULING ORDER: Plaintiff will file its motion seeking leave to take discovery by December 22, 2017. Defendant will file its opposition by January 12, 2018. Plaintiff will file its reply by January 19, 2018. Defendant will file its motion for summary judgment 21 days after: (a) the close of discovery; (b) the entry of an order denying Plaintiff's motion seeking leave to take discovery; or (c) Plaintiff's deadline to file a motion for leave to seek discovery, in the event Plaintiff does not seek leave; Plaintiff will file its opposition and/or cross-motion for summary judgment 21 days later; Defendant will file its reply and/or opposition to Plaintiff's cross-motion 14 days later; and Plaintiff will file its reply, if applicable, 14 days later. Signed by Judge Tanya S. Chutkan on 11/14/17. (DJS) (Entered: 11/14/2017)
11/15/2017		Set/Reset Deadlines: Motion for leave to take discovery due by 12/22/2017. Response due by 1/12/2018. Summary Judgment motion due by 1/19/2018. (tb) (Entered: 11/15/2017)
01/08/2018	<u>13</u>	Consent MOTION for Extension of Time to File <i>Summary Judgment Motion</i> by UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES (Attachments: # <u>1</u> Text of Proposed Order)(Kolsky, Joshua) (Entered: 01/08/2018)
01/08/2018		MINUTE ORDER: Granting <u>13</u> Consent Motion for Extension of Deadlines. Defendant's motion for summary judgment due January 26, 2018. Signed by Judge Tanya S. Chutkan on 1/8/18. (DJS) (Entered: 01/08/2018)
01/09/2018		Set/Reset Deadlines: Defendant's Motion for Summary Judgment is due by 1/26/2018. (jth) (Entered: 01/09/2018)
01/23/2018	<u>14</u>	MOTION for Extension of Time to File <i>Summary Judgment Motion</i> by UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES (Attachments: # <u>1</u> Text of Proposed Order)(Kolsky, Joshua) (Entered: 01/23/2018)
01/24/2018	<u>15</u>	NOTICE OF NON-OPPOSITION by PEOPLE FOR THE ETHICAL TREATMENT OF ANIMALS, INC. re <u>14</u> MOTION for Extension of Time to File <i>Summary Judgment Motion</i> (Seber, John) (Entered: 01/24/2018)
01/29/2018		MINUTE ORDER: Granting <u>14</u> Motion for Extension of Time to File Motion for Summary Judgment. Defendant's Motion due February 9, 2018. Signed by Judge Tanya S. Chutkan on 1/29/18. (DJS) (Entered: 01/29/2018)
01/29/2018		Set/Reset Deadlines: Defendant's Motion for Summary Judgment due by 2/9/2018. (tth) (Entered: 01/29/2018)
02/09/2018	<u>16</u>	MOTION for Summary Judgment by UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES (Attachments: # <u>1</u> Declaration, # <u>2</u> Exhibit A (Vaughn Index), # <u>3</u> Text of Proposed Order)(Kolsky, Joshua) (Entered: 02/09/2018)
02/21/2018	<u>17</u>	NOTICE OF WITHDRAWAL OF APPEARANCE as to PEOPLE FOR THE ETHICAL TREATMENT OF ANIMALS, INC.. Attorney John Seber terminated. (Seber, John) (Entered: 02/21/2018)

02/21/2018	<u>18</u>	Consent MOTION for Extension of Time to File Response/Reply as to <u>16</u> MOTION for Summary Judgment by PEOPLE FOR THE ETHICAL TREATMENT OF ANIMALS, INC. (Attachments: # <u>1</u> Text of Proposed Order Proposed Order)(Walters, Gabriel) (Entered: 02/21/2018)
02/21/2018	<u>19</u>	MOTION for Leave to Appear Pro Hac Vice :Attorney Name– David Albert Schwartz, :Firm– PETA Foundation, :Address– 1536 16th Street NW. Phone No. – 2024837382. Fax No. – 2025402208 Filing fee \$ 100, receipt number 0090–5341439. Fee Status: Fee Paid. by PEOPLE FOR THE ETHICAL TREATMENT OF ANIMALS, INC. (Attachments: # <u>1</u> Declaration In Support of Motion to Appear Pro Hac Vice, # <u>2</u> Text of Proposed Order Granting Motion to Appear Pro Hac Vice)(Walters, Gabriel) (Entered: 02/21/2018)
02/26/2018		MINUTE ORDER: Granting <u>18</u> Consent Motion for Extension of Time to File Response/Reply. Plaintiff's response due March 23, 2018. Signed by Judge Tanya S. Chutkan on 2/26/18. (DJS) (Entered: 02/26/2018)
02/27/2018		Set/Reset Deadlines: Response to Motion for Summary Judgment due by 3/23/2018. (tb) (Entered: 02/27/2018)
02/28/2018		MINUTE ORDER: Granting in part and denying in part <u>19</u> Motion for Admission Pro Hac Vice. Attorney David Albert Schwartz may be heard in open court on behalf of Plaintiff, but may not file papers in this court. See Local Civil Rule 83.2(c)(2) ("An attorney who engages in the practice of law from an office located in the District of Columbia must be a member of the District of Columbia Bar AND the Bar of this Court to file papers in this Court."). Signed by Judge Tanya S. Chutkan on 2/28/18. (DJS) (Entered: 02/28/2018)
03/22/2018	<u>20</u>	Memorandum in opposition to re <u>16</u> MOTION for Summary Judgment filed by PEOPLE FOR THE ETHICAL TREATMENT OF ANIMALS, INC.. (Attachments: # <u>1</u> Statement of Facts, # <u>2</u> Declaration, # <u>3</u> Text of Proposed Order)(Walters, Gabriel) (Entered: 03/22/2018)
03/22/2018	<u>21</u>	AFFIDAVIT re <u>20</u> Memorandum in opposition to re <u>16</u> MOTION for Summary Judgment <i>Declaration of Gabriel Walters</i> filed by PEOPLE FOR THE ETHICAL TREATMENT OF ANIMALS, INC.. (Attachments: # <u>1</u> Exhibit HHS letter dated Feb. 8, 2018, # <u>2</u> Exhibit Purportedly non–responsive records, # <u>3</u> Exhibit Responsive records 1, # <u>4</u> Exhibit Responsive records 2, # <u>5</u> Exhibit Responsive records 3)(Walters, Gabriel) Modified event title on 3/23/2018 (znmw). (Entered: 03/22/2018)
04/04/2018	<u>22</u>	Consent MOTION for Extension of Time to File Response/Reply as to <u>16</u> MOTION for Summary Judgment by UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES (Attachments: # <u>1</u> Text of Proposed Order)(Kolsky, Joshua) (Entered: 04/04/2018)
04/05/2018		MINUTE ORDER: Granting <u>22</u> Consent Motion for Extension of Time to File Response/Reply. Defendant's reply due April 12, 2018. Signed by Judge Tanya S. Chutkan on 4/5/18. (DJS) (Entered: 04/05/2018)
04/06/2018		Set/Reset Deadlines: Reply due by 4/12/2018. (tb) (Entered: 04/06/2018)
04/12/2018	<u>23</u>	REPLY to opposition to motion re <u>16</u> MOTION for Summary Judgment filed by UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES. (Attachments: # <u>1</u> Declaration (Weiser), # <u>2</u> Exhibit A to Weiser Declaration, # <u>3</u> Exhibit 1)(Kolsky, Joshua) (Entered: 04/12/2018)
12/18/2018	<u>24</u>	NOTICE OF SUBSTITUTION OF COUNSEL by Paul Cirino on behalf of UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES Substituting for attorney Joshua M. Kolsky (Cirino, Paul) (Entered: 12/18/2018)
06/01/2020	<u>25</u>	MEMORANDUM OPINION regarding Defendant's <u>16</u> Motion for Summary Judgment. Signed by Judge Tanya S. Chutkan on 6/1/2020. (lcll) (Entered: 06/01/2020)
06/01/2020	<u>26</u>	ORDER granting in part and denying in part Defendant's <u>16</u> Motion for Summary Judgment. The parties shall meet and confer and file a JOINT proposal for moving forward with this case no later than July 1, 2020. See order for details. Signed by Judge Tanya S. Chutkan on 6/1/2020. (lcll) (Entered: 06/01/2020)

06/02/2020		Set/Reset Deadlines: Joint Proposal due by 7/1/2020.(tb) (Entered: 06/02/2020)
06/02/2020		MINUTE ORDER: The parties' joint status report due on 7/1/2020 shall be accompanied by a proposed order. Signed by Judge Tanya S. Chutkan on 6/2/2020. (DJS) (Entered: 06/02/2020)
06/03/2020		Set/Reset Deadlines: Joint Status Report due by 7/1/2020. (tb) (Entered: 06/03/2020)
07/01/2020	<u>27</u>	Joint STATUS REPORT by UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES. (Attachments: # <u>1</u> Text of Proposed Order)(Cirino, Paul) (Entered: 07/01/2020)
07/06/2020		MINUTE ORDER: Having considered the parties' joint status report <u>27</u> , it is hereby ordered that the parties shall file another joint status report by 8/3/2020 and every 30 days thereafter. To the extent the report contains a proposed production or briefing schedule, the report shall be accompanied by a proposed order. Signed by Judge Tanya S. Chutkan on 7/6/2020. (DJS) (Entered: 07/06/2020)